

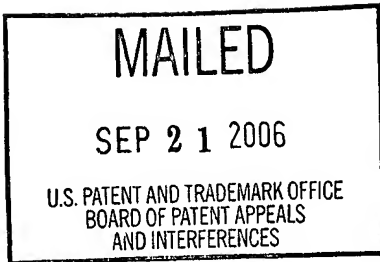
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GEORGE C. JEANE

Appeal No. 2006-0846
Application No. 10/068,695

ON BRIEF



Before FRANKFORT, OWENS, and LEVY, *Administrative Patent Judges.*
OWENS, *Administrative Patent Judge.*

DECISION ON APPEAL

This appeal is from a rejection of claims 1, 3-19 and 21-26. Claims 2 and 20 have been canceled.

THE INVENTION

The appellant claims a fishing reel. Claim 1 is illustrative:

1. A fishing reel, comprising:

a) a frame, said frame having forward and rearward ends and two sides;

b) a transversely orientated, revolvable cylindrical spool mounted to said frame, said spool having a recessed channel for holding a length of coiled fishing line; and

c) a line guide mounted on said frame in a fixed position forward of said spool; and

d) means for controlling the rotation of said spool and thereby dispensing said fishing line from said channel as said spool rotates during the casting of a fishing lure and on to said channel as said spool rotates during retrieval of said fishing lure.

THE REFERENCES

Shakespeare, Jr.	1,869,441	Aug. 2, 1932
Shumate et al. (Shumate)	3,784,124	Jan. 8, 1974
Zwayer et al. (Zwayer)	6,070,822	Jun. 6, 2000

THE REJECTIONS

The claims stand rejected as follows: claims 1, 3, 4, 21 and 22 under 35 U.S.C. § 102(b) as anticipated by Schumate; claims 5-7, 11-17, 23 and 24 under 35 U.S.C. § 103 as obvious over Shumate in view of Zwayer;¹ and claims 8-10, 18, 19, 25 and 26 over Shumate in view of Shakespeare.²

OPINION

We affirm the aforementioned rejections.

The appellant separately argues the claims in the following groups: 1) 1, 2) 21, 3) 22, 4) 5, 13 and 23, 5) 6, 11, 14, 16 and 24, 6) 18 and 25, and 7) 9, 19 and 26 (brief, pages 8-18). We therefore limit our discussion to claims 1, 21, 22 and one claim in each of the other groups, i.e., claims 13, 6, 18 and 9. The claims in each group stand or fall together, and the dependent claims not in one of the groups stand or fall with the

¹ We consider the examiner's omission of claim 12, which depends from claim 11, from the statement of the rejection to be inadvertent.

² In the statement of the rejection (answer, page 6) the examiner erroneously refers to claim 26 as claim 25.

argued claim from which they depend. See 37 CFR
§ 41.37(c)(1)(vii)(2004).

Claim 1

Schumate discloses a fishing reel comprising a housing body (42), a transversely orientated, revolvable cylindrical spool (40) mounted to the housing body (figure 4), the spool having a recessed channel for holding a length of coiled fishing line (col. 2, lines 15-17; figure 3), and a crank (56).³

The appellant argues that Shumate's spool does not rotate during the casting and retrieval of a fishing lure (brief, pages 9-10. Shumate discloses that "[e]ven though the reel is not designed for use in casting, it can be used for short distances" (col. 2, lines 28-29), which is all the appellant's claim 1 requires.

The appellant argues that Shumate's spool has no recessed channel (brief, page 9). A spool having a recessed channel is shown in Shumate's figures 2 to 4.

The appellant argues that Shumate does not disclose that the spool configuration is beneficial for backlash control (brief, page 9).⁴ The appellant's claim 1 does not require that

³ The appellant's means for controlling the rotation of the spool is a conventional handle (specification, page 5, lines 10-11). Thus, the appellant's means for controlling the rotation of the spool reads on Shumate's crank, which is a conventional handle.

⁴ Backlash of the reel causes line tangling (specification, page 2, lines 18-20).

the spool configuration is capable of being beneficial for backlash control.

For the above reasons we find that claim 1 is anticipated by Schumate.

Claim 21

The appellant argues that Shumate does not disclose "the orientation of the channel with respect to the spool" (brief, page 10). Claim 21 requires that the spool has a line-holding channel having a cross-section that is substantially rectangular and narrower than its depth. A spool having such a channel is shown in Shumate's figures 2 to 4.

Claim 22

The appellant argues that it is merely coincidental that the vertical mid-point of Shumate's ring-shaped line guide (22) is no lower than approximately the vertical mid-point of the line-holding channel and no higher than approximately the top rim of the line holding channel (figure 2) (brief, pages 10-11). Shumate's disclosure of that positioning anticipates the appellant's claim 22 regardless of whether it is coincidental.

Claim 13

Zwayer discloses a fishing reel having a circular line opening (126) that is smooth and protects the fishing line from abrasion (col. 6, line 66 - col. 7, line 2).

The appellant argues that there would have been no motivation for one of ordinary skill in the art to combine Shumate's fishing reel which is primarily for cane pole fishing with Zwayer's disclosure of a hook keeper for a spincast fishing reel (brief, pages 12-13). In addition to disclosing a hook keeper, Zwayer teaches that his circular line opening provides the benefits of smoothness and reduced fishing line abrasion (col. 6, line 66 - col. 7, line 2). That teaching would have fairly suggested, to one of ordinary skill in the art, a circular line opening in Shumate's housing to provide those benefits.

The appellant argues that neither Shumate nor Zwayer addresses the problem of backlash (brief, page 13). To establish a prima facie case of obviousness, references need not be combined for the purpose of solving the problem solved by the appellant. See *In re Kemps*, 97 F.3d 1427, 1430, 40 USPQ2d 1309, 1311 (Fed. Cir. 1996); *In re Beattie*, 974 F.2d 1309, 1312, 24 USPQ2d 1040, 1042 (Fed. Cir. 1992); *In re Dillon*, 919 F.2d 688, 693, 16 USPQ2d 1897, 1901 (Fed. Cir. 1990) (*en banc*), cert. denied, 500 U.S. 904 (1991). The references would have led one of ordinary skill in the art to combine their teachings to obtain the above-discussed benefit of smoothness and reduced fishing line abrasion.

Hence, Shumate and Zwayer would have fairly suggested, to one of ordinary skill in the art, the fishing reel claimed in the appellant's claim 13.

Claim 6

Claim 6 requires that the diameter of the substantially circular line guide is in the range of about $3/8$ to about $5/8$ of the width of the channel.

The appellant argues that "neither Shumate nor Zwayer considers the line guide dimensions or position as a potential remedy for controlling 'backlash' in a spool that revolves during the cast" (brief, page 14). As discussed above, the references need not be combined for the purpose of solving the problem addressed by the appellant. Because Shumate's spool feeds line from a drum (23) across the width of the spool (figure 2), one of ordinary skill in the art would have been led by the reference to make opening 22, which is for dispensing and rewinding the fishing line (col. 1, lines 52-55), reasonably wide so that the line over the width of the drum can be smoothly dispensed and rewound. That reasoning is supported by Shumate's figure 2 which shows the size of the opening as being a significant portion of the spool width. Optimum values of the opening size, such as about $3/8$ to $5/8$ of the width of the

channel, would have been determinable by one of ordinary skill in the art through no more than routine experimentation.

We therefore are not convinced of reversible error in the rejection of claim 6.

Claim 18

Shakespeare, Jr. discloses a fishing reel having a vertically extending elongated ring line guide eye (4) that presents a rounded wear surface to the fishing line, reinforces the edges of the line guide opening, and provides the line guide opening with an attractive finish (page 1, lines 1-5 and 96-99).

The appellant argues that Shumate and Shakespeare, Jr. do not disclose preventing backlash (brief, pages 15-16). As pointed out above, the references need not be combined for the purpose of solving the problem addressed by the appellant. One of ordinary skill in the art would have been led by Shakespeare, Jr. to use a vertically extending elongated ring guide eye in Shumate's fishing reel to provide a reinforced opening having a rounded wear surface and an attractive finish.

Thus, the applied references would have fairly suggested the fishing reel in claim 18 to one of ordinary skill in the art.

Claim 9

The appellant argues that nothing in the references suggests a relationship between the dimensions of the line guide and the dimensions of the spool width as a means for controlling backlash (brief, page 17). As explained above, the references do not have to be combined for the purpose of solving the problem addressed by the appellant. One of ordinary skill in the art would have arrived at the appellant's relative dimensions of the line guide and spool through no more than routine experimentation as discussed above regarding the rejection of claim 6.

Accordingly, we are not convinced of reversible error in the rejection of claim 9.

DECISION

The rejections of claims 1, 3, 4, 21 and 22 under 35 U.S.C. § 102(b) over Schumate, claims 5-7, 11-17, 23 and 24 under 35 U.S.C. § 103 over Shumate in view of Zwayer, and claims 8-10, 18, 19, 25 and 26 over Shumate in view of Shakespeare, are affirmed.

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No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

Charles E. Frankfort
CHARLES E. FRANKFORT)
Administrative Patent Judge)

Terry J. Owens
TERRY J. OWENS)
Administrative Patent Judge)

Stuart S. Levy
STUART S. LEVY)
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